

(2013) 05 UK CK 0033

In the Uttarakhand High Court

Case No : Criminal Miscellaneous Appeal No. 435 of 2007

Narendra Singh

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 03-05-2013

Acts Referred:

Citation : (2013) 82 ALLCC 68

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Servesh Kumar Gupta, J.—At the outset, it is pertinent to mention that none is present on behalf of respondent No. 2 though service upon him is sufficient and an advocate, on his behalf, has also filed power. Heard Sri L.K. Tiwari, learned Counsel for the applicant and Sri Asif Ali, Brief Holder for the State/respondent No. 1 and also perused the entire material available on record.

2. The instant petition seeks to quash the charge sheet No. 24 of 2006 pertaining to crime No. 76 of 1990, P.S. Srinagar, District Pauri, as also the entire proceedings of criminal case No. 554 of 2006, pending before the Court of Chief Judicial Magistrate, Pauri Garhwal.

3. The said chargesheet was submitted for the offence punishable u/s 306 I.P.C. against Sharad Kumar, a Junior Engineer as well as against the petitioner Narendra Singh, an Executive Engineer, who were posted in the Irrigation Department at the relevant date and time of the offence which occurred on 24.9.1990.

4. The genesis of the First Information Report lodged by Murari Singh Panwar (real brother of deceased) was that his brother Hari Singh Panwar, an engineer of two years' service strength, was transferred to Srinagar in the Irrigation Department and he had to take charge of a departmental store, having a number of items, from his predecessor Sri Sharad Kumar Kulshrestha, Junior Engineer

and one Krishan Bahadur, posted there as a Foreman. There were certain items running short in the store but Mr. Hari Singh Panwar was forced to take charge of the same by those two accused. In the first information report lodged by the complainant, it has been alleged that the items, which were running short, had already been sold somewhere by the petitioner Narendra Singh (the then Assistant Engineer) in connivance with the aforementioned two accused persons, and that the petitioner was also instrumental in forcing the deceased to sign upon the paper certifying taking over of the charge. By this action, on the part of the accused persons, Hari Singh Panwar become so desperate that he even committed suicide by consuming poison.

5. The First Information Report was lodged on 25.9.1990. Somehow, the matter could be investigated by the CB-CID, Dehradun, but the charge-sheet could be submitted on 3.8.2006, i.e. after almost sixteen years, against the petitioner and one other accused Sharad Kumar. By that time, a charge-sheet had already been submitted against another accused Krishan Bahadur on 27.5.2006.

6. The crucial evidence, which has to play the pivotal role in the trial, is the suicide-note left by the deceased Hari Singh Panwar. In the said note, which run into four pages, not a single sentence has been mentioned by the deceased attributing any liability upon the petitioner/accused Narendra Singh, alleging coercion upon him to take over the charge of the departmental items. Rather, only two names, i.e. of Sharad Kumar Kulshrestha (Junior Engineer) and Krishna Bahadur (Foreman) have repeatedly been mentioned in the said note ascribing the liability upon them, compelling the deceased to sign upon the charge-list of the departmental store where the items were running short.

7. After a careful perusal of the suicide note, left by the deceased, it appears that the same specifically and categorically states that Sri Sharad Kumar Kulshrestha and Sri Krishan Bahadur were the accused, under whose impelling, the deceased put his signature on the charge certificate, however there is no whisper disclosing the complicity of the present petitioner in any manner whatsoever. It is now a well-settled proposition of law that in order to make out a case u/s 306 I.P.C., the ingredients of abetment, as given u/s 107 I.P.C., are necessary to be satisfied. However, in the instant case, there is nothing on the record, which in any manner could suggest the complicity of the present petitioner in the alleged crime. Besides, there was also no act done by the petitioner which can be said to be a proximate cause so as to instigate or aid the deceased to commit the suicide. That apart, there is also no averment in the suicide note that the petitioner caused any harm to the deceased nor there is any such allegation that the petitioner was instrumental in harassing the deceased. Thus, it can safely be inferred that there is no case that the petitioner played any part or any role in any conspiracy, which ultimately instigated or resulted in the commission of suicide by deceased. I am fortified in my above view by the verdict of Hon"ble Apex Court in the case of Netai Dutta Vs. State of West Bengal,

8. Now, the question arises as to why the Investigating Officer has submitted

charge-sheet against the petitioner. A counter-affidavit has been filed by the said Officer, along with which the statements of complainant Murari Singh Panwar (real brother of deceased), Ajmer Singh (relation of deceased), Smt. Beena (wife of deceased) as well as Ghanshyam Singh and Raghuvir Singh (other two witnesses) have been annexed. All these witnesses, except the wife of deceased, have stated in their statements u/s 161 Cr.P.C. that while shifting Hari Singh Panwar to the hospital, he was gabbling and implicating the petitioner Narendra Singh, thereby ascribing the liability upon him also, impelling him for taking over of the charge. The wife Smt. Beena, in her statement u/s 161 Cr.P.C., which could be recorded on 8.11.1995, i.e. after almost four years of the occurrence, has stated that her husband had once disclosed the name of Narendra Singh (petitioner) who was also instrumental in giving charge of the items, which were running short from the departmental store.

9. The Court feels that the statements of the aforestated witnesses loose their significance in light of the clear-cut suicide note which has not ascribed any accountability upon the petitioner forcing him to take over the charge of the store. Thus, the Court feels that in these circumstances, it would be quite unjustified in permitting the trial against the petitioner Narendra Singh.

10. In view of what has been stated above, the petition is allowed. Impugned charge-sheet, as also the proceedings of impugned criminal case, as aforementioned, so far as the same relates to the petitioner Narendra Singh only, are hereby quashed. At the same time, it is directed that the proceedings against the co-accused Sharad Kumar Kulshrestha (Junior Engineer) and Krishan Bahadur (Foreman) will be put into motion by the Trial Court without any delay. Let a copy of this order along with the entire record be sent to the Court concerned for compliance and expeditious trial already too belated.